

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ALLISON GOLDBERG)	
)	Civil Action
Plaintiff,)	File No.
v.)	
)	JURY TRIAL DEMANDED
RYAN M. FRIEDRICH, DDS, LLC)	
)	
Defendant.)	
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COMPLAINT FOR DAMAGES

COMES NOW Plaintiff Allison Goldberg (“Plaintiff” or “Goldberg”), by and through undersigned counsel, and files this Complaint against Ryan M. Friedrich, DDS, LLC (“Friedrich DDS”) and shows the following:

I. Nature of Complaint

1.

Plaintiff brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.

2.

This action seeks declaratory relief, along with liquidated and actual damages for Defendant’s failure to pay federally mandated overtime wages to

Plaintiff in violation of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §201 *et seq.* (hereinafter the “FLSA”).

II. Jurisdiction and Venue

3.

The jurisdiction of this Court is invoked pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

4.

Defendant is a Georgia limited liability company, and resides in this district. Defendant does business in and is engaged in commerce in the State of Georgia. Venue is proper in this district pursuant to 29 U.S.C. § 1391(b) because Defendant resides in this district and a substantial part of the acts or omissions that give rise to Plaintiff’s claims occurred in this district.

III. Parties and Facts

5.

Plaintiff is a resident of the State of Georgia.

6.

Plaintiff was employed by Defendant as an office employee from 2004 to May 5, 2013.

7.

Plaintiff was an “employee” of Defendant, as that term has been defined by the FLSA, 29 U.S.C.S. § 201 et seq., 29 U.S.C. § 203(e).

8.

During the last three years, while employed by Defendant as an Office Employee, Goldberg’s primary job duty was the performance of non-exempt work, secretarial and clerical duties involved in Defendant’s dentistry business.

9.

During the last three years, while employed by Defendant as an Office Employee, Plaintiff regularly worked in excess of 40 hours in given workweeks.

10.

During the last three years, Defendant paid Plaintiff an hourly rate for all hours worked, without an overtime premium of one and one half times her regular rate for hours that Plaintiff worked over 40 in given workweeks.

11.

During the last three years, while employed by Defendant as an Office Employee, Plaintiff regularly worked in excess of (40) hours in given work weeks and was not paid the overtime wage differential calculated at one and one half times her regular rate of pay.

12.

Defendant is a private employer engaged in interstate commerce, and its gross revenues exceed \$500,000.00 per year.

13.

Defendant is an “employer” within the definition of the FLSA, § 29 U.S.C. §203(d).

14.

Defendant is governed by and subject to the FLSA, 29 U.S.C. §§ 204 and §207.

15.

Defendant’s practices violate the provisions of the FLSA, 29 U.S.C. § 201, et seq. including but not limited to 29 U.S.C. § 207. As a result of Defendant’s unlawful practices, Plaintiff has suffered lost wages.

Count I

**Violation of the Overtime Wage Requirement of
the Fair Labor Standards Act**

16.

Plaintiff repeats and re-alleges each and every allegation contained in the preceding paragraphs of this Complaint with the same force and effect as if set

forth herein.

17.

Defendant has violated the FLSA, 29 U.S.C. § 201, et seq. including but not limited to 29 U.S.C. § 207, by failing to pay overtime wages for hours Plaintiff worked in excess of (40) hours in given workweeks.

18.

The FLSA, 29 U.S.C. § 207, requires employers to pay employees one and one-half times the regular rate of pay for all hours worked in excess of (40) hours in a workweek.

19.

Defendant suffered and permitted Plaintiff to routinely work more than (40) hours per week without overtime compensation calculated at one and one half times her regular rate of pay.

20.

Defendant's actions, policies and/or practices as described above violate the FLSA's overtime requirement by regularly and repeatedly failing to compensate Plaintiff at the required overtime rate.

21.

Defendant knew, or showed reckless disregard for the fact that it failed to pay Plaintiff overtime compensation in violation of the FLSA.

22.

Defendant failed to accurately report, record and/or preserve records of hours worked by Plaintiff, and thus has failed to make, keep and preserve records with respect to each of their employees sufficient to determine their wages, hours and other conditions and practices of employment, in violation of the FLSA.

23.

Defendant's violations of the FLSA were willful and in bad faith.

24.

Pursuant to the FLSA, 29 U.S.C. § 216, Plaintiff is entitled to recover the unpaid overtime wage differential, liquidated damages in an equal amount to unpaid overtime, attorneys' fees, and the costs of this litigation incurred in connection with these claims.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

(A) Grant Plaintiff a trial by jury as to all triable issues of fact;

- (B) Enter judgment awarding Plaintiff unpaid wages pursuant to the FLSA, 29 U.S.C. §§ 206(d), 207, and 216, liquidated damages as provided by 29 U.S.C. § 216, pre-judgment interest on unpaid wages, court costs, expert witness fees, and reasonable attorneys' fees pursuant to 29 U.S.C. § 216, and all other remedies allowed under the FLSA; and,
- (C) Grant declaratory judgment declaring that Plaintiff's rights have been violated, and that Plaintiff was misclassified as exempt from the overtime requirements of the FLSA;
- (D) Grant leave to add state law claims if necessary; and
- (E) Award Plaintiff such further and additional relief as may be just and appropriate.

Respectfully submitted,

This 28th day of May, 2013.

BARRETT & FARAHANY, LLP

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